

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

RIVERKEEPER, INC.  
Plaintiff,

v.

R.B. SCRAP IRON & METAL, INC.  
Defendant.

Case No. 22-cv-4621

**CONSENT DECREE**

WHEREAS, Plaintiff Riverkeeper, Inc. (“Riverkeeper” or “Plaintiff”) is a not-for-profit environmental organization organized under the laws of the State of New York, with its principal place of business in Ossining, New York.

WHEREAS, Defendant R.B. Scrap Iron & Metal, Inc. (“RB Scrap” or “Defendant”) is a corporation incorporated under the laws of the State of New York that participates in ownership and operation of the scrap metal recycling facility located at 730 Saw Mill River Road, Yonkers, NY (“the Facility”).

WHEREAS, Plaintiff alleges that Defendant discharges polluted stormwater associated with industrial activities from the Facility into waters of the United States, including the Saw Mill River, a navigable water of the United States that in turn discharges to the Hudson River. RB Scrap denies the allegation.

WHEREAS, at the Facility, Plaintiff alleges that Defendant conducts industrial activities described under the primary Standard Industrial Classification (“SIC”) Code of 5093 and therefore any discharge of stormwater associated with activities at the Facility is subject to the General Permit for the Discharge of Stormwater Associated with Industrial Activity (“General Permit”) issued by the New York State Department of Environmental Conservation (“DEC”), Permit No. GP-0-23-001. RB Scrap denies the allegation.

WHEREAS, Plaintiff alleges that Defendant has operated the Facility for many years without coverage under the General Permit or an individual Clean Water Act permit. RB Scrap denies the allegation.

WHEREAS, Riverkeeper sent a notice of intent to sue Defendant (the “Notice Letter”) on March 31, 2022, and filed a complaint (the “Complaint”) on June 3, 2022, alleging violations of the Clean Water Act (“CWA”) Sections 301 and 402, 33 U.S.C. §§ 1311(a), 1342, by, *inter alia*, discharging polluted stormwater associated with industrial activity without coverage under the General Permit and failing to comply with the conditions of the General Permit, seeking declaratory and injunctive relief, civil penalties, and reasonable attorneys’ fees and costs. RB Scrap denies the allegations.

WHEREAS, Riverkeeper has entered and inspected the Facility and the Parties, herein defined, have exchanged information regarding compliance with the CWA at the Facility.

WHEREAS, RB Scrap has obtained coverage under the General Permit, the Facility's SPDES ID # is NYR00G680, and the Effective Date of the Facility's permit coverage is 11/11/2022.

WHEREAS, without any concession or admission by Defendant that they have violated the CWA, or any concession or admission by Riverkeeper that Defendant's implementation of the measures listed below will prevent all discharge of polluted stormwater or will assure compliance with the terms and conditions of the General Permit, Riverkeeper and Defendant (collectively, "the Parties" or individually a "Party") agree that it is in their mutual interest to resolve this matter without the taking of evidence or findings of fact or law, and the Parties would like to avoid prolonged and costly litigation.

WHEREAS, this Decree shall be submitted to the United States Department of Justice and the United States Environmental Protection Agency ("EPA") for the 45-day statutory review period, pursuant to 33 U.S.C. § 1365(c).

NOW, THEREFORE, without the trial of any issue of fact or law, without the admission by Defendant of any of the facts or violations alleged in the Complaint, upon consent of the Parties, and upon consideration of the mutual promises contained herein,

**IT IS HEREBY STIPULATED BETWEEN THE PARTIES AND ORDERED,  
ADJUDGED AND DECREED BY THE COURT AS FOLLOWS:**

**I. DEFINED TERMS**

The defined terms set forth in the foregoing recitals are hereby incorporated into the body of this Decree and are made a part hereof. Terms used in this Decree that are defined in the CWA, its implementing regulations, and the General Permit shall have the meanings assigned to them therein, unless otherwise provided in this Decree. In addition, the following terms used in this Decree have the meaning set forth below:

1. **Effective Date.** The date upon which this Decree is entered by the Court.
2. **Term of this Decree.** The period beginning on the Effective Date and ending three (3) years from the Effective Date, unless a payment or other affirmative duty under this Decree is not completed in which case the Decree extends until those obligations are completed.
3. **The Facility.** The real property associated with the scrap metal recycling facility located at 730 Saw Mill River Road, Yonkers, NY.
4. **SWPPP.** Stormwater Pollution Prevention Plan, as defined in the General Permit.

5. **Operative SWPPP.** The most recent version of the SWPPP. At the time of signing, the Operative SWPPP is the SWPPP attached hereto as Exhibit A.

## II. JURISDICTION AND VENUE

6. **Jurisdiction.** Jurisdiction over this action is conferred by 28 U.S.C. § 1331 (federal question) and 33 U.S.C. § 1365(a) (CWA jurisdiction). Riverkeeper has standing and has complied with the statutory notice requirements under the CWA, 33 U.S.C. § 1365(a)(1), and the corresponding regulations at 40 C.F.R. § 135.2. An actual, justiciable controversy exists between Riverkeeper and RB Scrap. The requested relief is proper under 28 U.S.C. §§ 2201, 2202, and 33 U.S.C. § 1365(a).
7. **Venue.** Venue is properly vested in this Court pursuant to 33 U.S.C. § 1365(c)(1), because the alleged events giving rise to this action occurred at the Facility and in the Saw Mill River and New York Harbor watersheds, navigable waters of the United States, that are located within this judicial district.
8. **Consent.** For purposes of this Decree, or any action to enforce this Decree, RB Scrap consents to the Court's jurisdiction over this Decree and any such action and over Defendant. For purposes of this Decree, RB Scrap consents to venue in this judicial district.

## III. COVERAGE UNDER THE GENERAL PERMIT

9. **Compliance with SWPPP and the General Permit.** RB Scrap will implement the Operative SWPPP at the Facility in compliance with the terms of the General Permit, which is hereby incorporated into this Decree, and the CWA. A failure to adhere to the Operative SWPPP and/or the General Permit is a violation of this Decree.
10. **SWPPP Implementation.** The Operative SWPPP is attached hereto as Exhibit A. RB Scrap is in the process of modifying Outfall 001 to eliminate sheet flow and direct stormwater to a discrete discharge point. RB Scrap will complete this improvement within ninety (90) days of the Effective Date. Defendant shall provide Riverkeeper with an Implementation Report, prepared by a qualified stormwater professional, attesting to implementation of the SWPPP within thirty (30) days of the date for full implementation of the SWPPP. The Implementation Report shall include:
  - a. A summary of newly-implemented Best Management Practices ("BMPs");
  - b. Photographs of all BMPs added or improved, as well as diagrams of any structural BMPs added to the Facility;
  - c. A certification that the professional has visited the Facility in the month prior to submission of the Implementation Report;
  - d. A certification that, during the professional's last visit, all BMPs described in the Operative SWPPP were in good working order and all housekeeping measures appeared to be taking place; and
  - e. A copy of the amended SWPPP, if any.

11. **SWPPP Amendments.** If, during the Term of this Decree, Defendant amends the Operative SWPPP, or is required to amend the Operative SWPPP for any reason, including but not limited to the reasons enumerated in the General Permit, Defendant shall provide written notice to Riverkeeper within thirty (30) days of the amendment and shall provide Riverkeeper with all documents related to such amendment. BMPs in the Operative SWPPP attached hereto as Exhibit A or added pursuant to Paragraph 10 may not be removed without Riverkeeper's approval during the Term of this Decree.
12. **Schedule of Compliance – Riverkeeper's Covenant not to Sue.** The General Permit requires aspiring permittees to prepare and fully implement a SWPPP before they are eligible to seek coverage under the General Permit. In deference to practical considerations, the Consent Decree allows a three (3) month period for Defendant to complete all structural modifications. Therefore, this Decree requires Defendant to seek permit coverage before fully implementing their SWPPP. Provided that the structural modifications described in the SWPPP are completed on schedule, Riverkeeper hereby covenants not to prosecute Defendant's failure to fully implement a SWPPP before seeking coverage under the General Permit and covenants not to challenge Defendant's status under the General Permit during this initial period until the SWPPP is fully implemented.
13. **Implemented Stormwater Controls.** Defendant shall maintain in good working order all stormwater collection and treatment systems currently installed or to be installed pursuant to this Decree, including but not limited to existing housekeeping measures.

#### IV. MONITORING PROGRAM

14. **Additional Monitoring.** In addition to the inspections, monitoring, and reporting required under the General Permit and set forth in the Operative SWPPP, Defendant agrees to perform the following additional monitoring described herein during the Term of this Decree.
15. **Sampling Points.** The sampling points shall be those described in the Operative SWPPP.
16. **Sampling Frequency.** Defendant will sample and analyze stormwater discharges from one qualifying storm event that results in discharge in each quarter for any applicable benchmarks and numeric effluent limitations required by the Operative SWPPP.
17. **Sampling Methodology.** Defendant will take samples at each sampling point in a manner that is consistent with the requirements and protocols set forth in the General Permit. Defendant may report this sampling as part of the stormwater monitoring required by the General Permit.
18. **Recordkeeping.** Defendant will comply with the reporting and recordkeeping requirements of the General Permit. Defendant shall maintain written documentation at the Facility describing all inspections and assessments required under applicable provisions of the General Permit or of this Decree.

19. **Photographs of Quarterly Inspections.** While conducting routine quarterly inspections of BMPs (required by Part IV.B of the General Permit) and quarterly visual monitoring (required by Part IV.E of the General Permit), Defendant will photograph:
- a. Each BMP;
  - b. Any deficiencies in the implementation and/or adequacy of the BMPs;
  - c. Each visual monitoring sample in a completely clear and transparent container, with a view from above and from the side of the container; and
  - d. Any corrective actions taken in accordance with Part V of the General Permit.
20. **Results sent to Plaintiff.** Defendant will send to Riverkeeper a copy of every inspection record made, every sampling result and photograph taken, every BMP maintenance log, and every employee training log produced in accordance with the SWPPP and the General Permit during the Term of this Decree once per calendar year, no later than February 1 of the following year or on the last day during which this Decree is in effect, whichever is sooner, unless earlier reporting of an exceedance or violation is required pursuant to Section V.
21. **Provision of Government Documents to Riverkeeper.** During the Term of this Decree, Defendant shall provide Riverkeeper with copies of any documents or correspondence that are exchanged with any government agency, including but not limited to DEC and EPA, that are related to discharges of pollution from the Facility to waterbodies or sewers of any kind or CWA compliance.
- a. Routine inspection reports, monitoring data and reports, and certifications shall be submitted to Riverkeeper on or before February 1 of the following year or on the last day during which this Decree is in effect, whichever is sooner, including but not limited to:
    - i. Documents and correspondence related to Defendant's SPDES permit coverage at the Facility;
    - ii. Annual reports, including the Annual Certification Report required under the General Permit; and
    - iii. Monitoring or sampling data.
  - b. Records of an exceedance, permit violation, government inspection report, or public or government complaint regarding the Facility shall be submitted to Riverkeeper within ten (10) business days, including, but not limited to:
    - i. Data related to discharges of industrial stormwater to the sanitary sewer system, if any;
    - ii. Reports of spills or other incidents that may result in discharge of pollutants to a waterbody or sewer;
    - iii. Documents relating to inspections conducted by any governmental agency that relate to industrial stormwater; and
    - iv. Any record of a complaint received by the government regarding stormwater discharges at the Facility.
22. **Site Visits.** Defendant agrees to grant site access to representatives of Riverkeeper, including consultants acting on its behalf, to inspect the Facility for compliance with the

General Permit and this Decree up to one (1) time per year during the Term of this Decree (a “Site Visit”). The Site Visit shall occur during RB Scrap’s normal business hours at a mutually agreed-upon time. Riverkeeper shall provide Defendant with as much notice as possible, but at least forty-eight (48) hours’ notice prior to a Site Visit during wet weather, and seventy-two (72) hours’ notice prior to a Site Visit during dry weather. RB Scrap personnel, and/or experts and/or counsel acting on RB Scrap’s behalf, shall accompany Plaintiff throughout the Site Visit. During a Site Visit, Riverkeeper’s representatives may collect samples of stormwater, sediment, materials, or other substances using methods and sampling procedures that conform to the Operative SWPPP. Riverkeeper shall be permitted to take photographs and/or video recording during any Site Visit pursuant to this Paragraph. If Riverkeeper takes photographs and/or video recording, Riverkeeper shall provide Defendant with the photographs and/or video within fourteen (14) calendar days after the Site Visit. Should any noncompliance with the General Permit or the terms of this Decree be identified by Plaintiff, the Parties will follow the procedures outlined for corrective action in Section V. Plaintiff will provide RB Scrap with copies of any such determinations of noncompliance within ten (10) business days of receipt of such information by Plaintiff after the Site Visit. RB Scrap does not through this process admit that the noncompliance alleged by Plaintiff has occurred and RB Scrap retains the right to contest any alleged violations through the dispute resolution procedures set forth in Section X.

## **V. EXCEEDANCES AND VIOLATIONS**

23. **Reporting Exceedances of Numeric Effluent Limitations and Benchmark Monitoring Cutoff Concentrations.** Notwithstanding the annual reporting schedule set forth in Section IV, if at any point during the Term of this Decree the analytical results of any sample for any parameter exceeds any applicable numeric effluent limitation or benchmark monitoring cutoff concentration established in the General Permit, Defendant shall report the event to Riverkeeper and provide the analytical results within ten (10) business days of receiving the analytical results.
24. **Corrective Action Plan.** Where an effluent limitation or benchmark monitoring cutoff concentration is exceeded, where a violation of the Operative SWPPP or the General Permit is identified, or when Riverkeeper provides Defendant notice of non-compliance with the terms of this Decree (subject to the dispute resolution procedures set forth in Section X, if RB Scrap contests Riverkeeper’s notice of non-compliance), Defendant agrees to take responsive actions to improve stormwater management practices, including re-evaluating structural and non-structural BMPs and considering additional BMPs aimed at curing the violation and/or reducing pollutant levels observed in samples. Within thirty (30) days of discovering such exceedance or non-compliance, Defendant shall provide Riverkeeper with a Corrective Action Plan containing the following information:
  - a. Identification of any constituent that experienced an exceedance and/or the condition that caused the violation or non-compliance;



- b. Explanation of the possible cause(s) and/or source(s) of the exceedance, violation, or non-compliance; and
- c. Responsive actions to improve stormwater management practices, including modified or additional feasible BMPs to be considered to further reduce the possibility of future exceedance(s) or violations, and the proposed dates that such actions will be taken.

Defendant shall complete all responsive actions within twelve (12) weeks of discovery, unless the Parties agree to an extended timeline for completion. Any concurrence or failure to object by Riverkeeper to such Corrective Action Plan shall not be deemed to be an admission of the adequacy of such measures should they fail to bring the Facility's stormwater into compliance with applicable water quality criteria or the CWA's technology-based standards requiring industrial stormwater discharges to be controlled to the level achievable by the best available technology economically available.

## VI. PAYMENTS

25. **Environmental Benefit Payment ("EBP").** In lieu of any payment that could have been assessed as a penalty if the matter were tried, Defendant shall pay the sum of twelve thousand five hundred dollars (\$12,500) to Groundwork Hudson Valley (the "EBP Recipient"), located at 22 Main St., 2nd Floor, Yonkers NY 10701 for use on projects relating to the reduction, mitigation, and/or remediation of the effects of stormwater pollution or environmental restoration of, or other benefit to, the Saw Mill River or Hudson River watersheds. Defendant will pay the EBP in two installments, as follows: the first payment of \$6,250 will be sent to the EBP Recipient by certified mail no later than six months after the Effective Date; the second payment of \$6,250 will be sent to the EBP Recipient by certified mail no later than twelve months after the Effective Date. Each check shall be sent via certified mail, or similar service with tracking. Defendant shall concurrently notify Riverkeeper that payment has been sent to the EBP Recipient and provide the tracking number. None of this payment shall be disbursed to Riverkeeper.
26. **Stipulated Additional EBP.** Should Defendant fail to provide information or any required documentation to DEC or Riverkeeper by the deadlines required by the General Permit or this Decree, and have continued to fail to produce such information or documentation for fourteen (14) days after Riverkeeper has notified Defendant of such failure, Defendant shall make an additional payment of one-hundred dollars (\$100) per day for such failure, which shall accrue from the date of the missed deadline. Payments shall be made to the EBP Recipient in the manner specified above. Payment of each additional amount shall be due thirty (30) days after Riverkeeper's notice and, should Defendant fail to produce such information or documentation, every thirty (30) days thereafter. Defendant shall concurrently notify Riverkeeper each time a payment is made and provide a copy of each check and the tracking number. None of these payments shall be disbursed to Riverkeeper. Any payments Riverkeeper may allege are due under this provision shall be tolled during Dispute Resolution pursuant to Section X with respect to an allegedly missed deadline that is the subject of a dispute.

27. **Fees, Costs, and Expenses.** Defendant shall pay a sum of fifteen thousand dollars (\$15,000) as full and complete satisfaction of Riverkeeper's claims for attorneys' fees and costs incurred to date, including investigative and expert costs. Defendant will place the payment in escrow with Defendant's attorney within thirty (30) calendar days of execution of this Decree. Defendant hereby authorizes and instructs Defendant's attorney to transfer the payment to Super Law Group within five (5) business days of the Effective Date by check or electronic transfer. A check shall be sent via certified mail, or similar service with tracking and shall be payable to "Super Law Group, LLC Attorney Trust - IOLA". Payments will be deposited in Super Law Group's IOLA Trust Account for the benefit of Riverkeeper. Plaintiff and/or Plaintiff's attorneys and consultants shall not seek further compensation from the Court, except as set forth in Paragraph 42.
28. **Compliance Oversight Fees and Costs.** Riverkeeper will incur costs in order to monitor Defendant's compliance with this Decree, including but not limited to costs incurred by Riverkeeper or their counsel or consultants to conduct Site Visits, collect or review water quality sampling data, review annual reports, and discuss with representatives of Defendant any potential changes to compliance requirements, and similar activities. To help defray these costs, Defendant agrees to pay Riverkeeper's fees and costs in an amount not to exceed five thousand dollars (\$5,000) through the Term of this Decree. Defendant will place the payment in escrow with Defendant's attorney within thirty (30) calendar days of execution of this Decree. Defendant hereby authorizes and instructs Defendant's attorney to transfer the payment to Super Law Group within five (5) business days of the Effective Date by check or electronic transfer. A check shall be sent via certified mail, or similar service with tracking and shall be payable to "Super Law Group, LLC Attorney Trust - IOLA". Payments will be deposited in Super Law Group's IOLA Trust Account for the benefit of Riverkeeper. If the compliance monitoring fund is not fully utilized during the Term of this Decree, any remainder shall be donated to the EBP Recipient identified above. Neither RB Scrap nor its counsel shall have any responsibility for ensuring the proper disposition of these funds after receipt by Super Law Group. Defendant's counsel shall not serve as an escrow agent for the benefit of any intended recipient of these funds. Super Law Group shall bear sole responsibility for the disbursement of funds once received by it pursuant to this Decree.
29. **Acceleration.** Should Defendant fail to deliver any payment owed under the Decree by the deadlines set forth in this Decree, and have continued to fail to deliver such payment for fourteen (14) days, Defendant shall be deemed in default of their obligations under the Decree. In the event of default, all outstanding payment obligations under this Decree shall be accelerated such that they shall be immediately due and owing notwithstanding any payment schedule set forth in this Decree. If Defendant fails to make payment in full within sixty (60) days of the original payment due date, Plaintiff may move the Court to enter Judgment against Defendants.



## **VII. EFFECT OF DECREE**

30. **Riverkeeper's Release of Liability.** Upon Court approval and entry of this Decree, Riverkeeper covenants not to sue and releases Defendant (including their representatives, assigns, agents, employees, officers, attorneys and consultants) from any and all claims, causes of action, or liability under the CWA for damages, penalties, fines, injunctive relief, or any other claim or relief (a) relating to or resulting from allegations and claims set forth in the Notice Letter, (b) for any past violations at the Facility of the CWA's stormwater provisions alleged, or that could have been alleged, in the Complaint, and (c) relating to or resulting from alleged noncompliance with the CWA occurring prior to the Effective Date or during the Term of this Decree. This Paragraph does not constitute a waiver or release of any claims relating to the enforcement of this Decree. This release shall survive the Term of this Decree.
31. **Reservation.** Riverkeeper does not waive its right to bring a future action based on stormwater discharges that occur after the Term of this Decree.
32. **Defendant's Releases of Liability.** Defendant releases and discharges Riverkeeper and its representatives, assigns, agents, employees, officers, attorneys and consultants, including those who have held positions in the past, from any and all claims, liability, demands, penalties, costs, and causes of action of any nature which concern or are connected with this action.
33. **Compliance with Law.** Riverkeeper does not by consent to this Decree warrant or aver in any manner that Defendant's compliance with this Decree shall constitute or result in compliance with federal or state law or regulation. Nothing in this Decree shall be construed to affect or limit in any way the obligations of Defendant to comply with all federal, state, and local laws and regulations governing any activity required by this Decree.
34. **Impossibility of Performance.** Where implementation of the actions set forth in this Decree within the agreed deadlines becomes impossible, despite the timely good faith efforts of the Parties, the Party who is unable to comply shall notify the others in writing within ten (10) business days of the date that the failure becomes apparent and shall describe the reason for the non-performance. The Parties agree to meet and confer in good faith concerning the non-performance and, where the Parties concur that performance was or is impossible, despite the timely good faith efforts of one of the Parties, new performance deadlines shall be established. If the Parties cannot timely agree upon the terms of such a stipulation, the Parties shall follow the Dispute Resolution Procedure outlined in Section X.

## **VIII. FEDERAL REVIEW OF DECREE**

35. **Review by United States.** The Parties recognize that, pursuant to 33 U.S.C. § 1365(c)(3), this Decree cannot be entered until forty-five (45) days after the receipt of

a copy of the proposed Decree by the Attorney General of the United States and the Administrator of the EPA. Therefore, upon signing of this Decree by the Parties, Riverkeeper shall serve copies of this Decree upon the EPA Administrator, the Regional EPA Administrator, and the Attorney General for review, as required by 40 C.F.R. § 135.5. If for any reason the United States should decline to approve this Decree in the form presented, the Parties agree to continue negotiations in good faith to cure any objection to entry of this Decree raised by the United States.

36. **Entry of Order.** Upon the expiration of the forty-five (45) day review period provided by 33 U.S.C. § 1365(c)(3), the Parties shall move the Court for entry of this Decree. If for any reason the Court should decline to approve this Decree in the form presented, the Parties agree to continue negotiations in good faith to cure any objection to entry of this Decree raised by the Court.

## IX. MODIFICATION AND ENFORCEMENT OF DECREE

37. **Modification in Writing.** This Decree may be modified only upon written consent of the Parties and the approval of the Court.
38. **Continuing Jurisdiction of the Court.** This Court shall retain and shall have jurisdiction over the Parties to this Decree for the resolution of any disputes that may arise under this Decree. This Court shall also allow this action to be reopened for the purpose of enabling the Parties to this Decree to apply to the Court for any further order that may be necessary to construe, carry out, enforce compliance and/or resolve any dispute regarding the terms or conditions of this Decree.

## X. DISPUTE RESOLUTION PROCEDURE

39. **Meet and Confer.** Any disputes with respect to any of the provisions of this Decree shall be, in the first instance, the subject of informal negotiations between the Parties affected by the dispute to attempt to resolve such dispute.
40. **Motion.** If a dispute between the Parties cannot be resolved by informal negotiations, a Party may file a motion with the Court seeking resolution of the dispute. The motion shall set forth the nature of the dispute and a proposal for its resolution. The other Party shall have thirty (30) days to respond to the motion and propose an alternate resolution.
41. **Notice.** The moving Party shall provide the other Party with seventy-two (72) hours' written notice prior to initiating court proceedings to enforce this Decree.
42. **Fee Awards.** In resolving any dispute arising from this Decree, the Court shall have discretion to award attorneys' fees and costs. The relevant provisions of the CWA and Rule 11 of the Federal Rules of Civil Procedure shall govern the allocation of fees and costs in connection with the resolution of any disputes before the Court.
43. **Remedies.** The Parties acknowledge and agree that specific performance, declaratory relief, and injunctive relief are the only appropriate remedies for any breach of this

Decree, and under no circumstances shall monetary damages be allowed for any breach of this Decree. EBPs, awards of fees and costs, and/or penalties payable to the U.S. Treasury are not damages.

## **XI. MISCELLANEOUS PROVISIONS**

44. **Entire Agreement.** This Decree constitutes the entire agreement among the Parties concerning the subject matter hereof and supersedes all previous correspondence, communications, agreements, and understandings, whether oral or written, among the Parties.

45. **Notices.** Any notice, demand, copies of documents, or other communications required to be made under the provisions of this Decree (collectively, “Notices”) by any Party hereto shall be effective only if in writing. Notices shall be directed to the Parties at their respective addresses set forth below. Notices given in the foregoing manner shall be deemed given: (a) if delivered by courier, when actually received or refused by the addressee; (b) if mailed, on the day of actual delivery as shown by the addressee’s registered or certified mail receipt or at the expiration of three (3) business days after the date of mailing, whichever first occurs; or (c) if e-mailed, when acknowledged by the addressee. Each Party shall promptly notify the other Party of any change in this contact information, including but not limited to a change in representation.

Notices for Riverkeeper shall be sent to:

Edan Rotenberg  
edan@superlawgroup.com  
and  
Julia Muench  
julia@superlawgroup.com

Super Law Group, LLC  
222 Broadway, 22nd Floor  
New York, NY 10038

Notices sent to the individuals listed above at the address listed above shall be deemed as notice to Riverkeeper.

Notices for Defendant shall be sent to:

Paul Casowitz (pcasowitz@sprlaw.com)  
and  
Kayley McGrath (kmcgrath@sprlaw.com)

Sive, Paget, & Riesel, P.C.  
560 Lexington Avenue, 15<sup>th</sup> Floor  
New York, NY 10022

Rich Benash  
730 Saw Mill River Road  
Yonkers, NY 10710

Notices sent to the individuals listed above at the addresses listed above shall be deemed as notice to Defendant.

46. **Authorization.** Each person signing this Decree represents and warrants that s/he has been duly authorized to enter into this Decree by the Party on whose behalf it is indicated that the person is signing.

47. **Successors and Assigns.** This Decree shall be binding upon and inure to the benefit of the Parties and their respective representatives, heirs, executors, administrators, successors, officers, directors, agents, attorneys, employees and permitted assigns.

48. **Transfer of Ownership.** No transfer of ownership or operation of the Facility shall relieve Defendant of their obligation to implement the terms of this Decree unless (a) at least thirty (30) days prior to any transfer, Defendant provides notice of the proposed transfer to Riverkeeper and provides a copy of this Decree to the transferee; (b) the transferee agrees to undertake the obligations herein; and (c) the Parties move to amend this Decree to substitute the transferee for Defendant in this Decree.
49. **Interpretation.** The provisions contained herein shall not be construed in favor of or against any Party because that party or its counsel drafted this Decree, but shall be construed as if all Parties prepared this Decree, and any rules of construction to the contrary are hereby specifically waived. The terms of this Decree were negotiated at arm's length by the Parties hereto.
50. **Headings.** The section and paragraph headings contained in this Decree are for reference purposes only and shall not affect in any way the meaning or interpretation of this Decree.
51. **Counterparts.** This Decree may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Decree. Telecopied, scanned (.pdf), and/or facsimiled copies of original signatures shall be deemed to be originally executed counterparts of this Decree. Copies of the original Decree, whether transmitted by facsimile or other means, shall be effective.
52. **Severability.** In the event that any of the provisions of this Decree are held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.
53. **Changes to the General Permit.** Defendant will comply fully with the General Permit and any permit modification, individual permit, or General Permit reissuance applicable to the Facility during the Term of this Decree.
54. **Publicity.** Any public statement made by Defendant in any press release, in any oral or written material promoting Defendant's environmental or charitable practices or record, or in Defendant's Annual Reports that refers to Defendant's payments under this Decree shall include the following language: "Payments to this organization were made pursuant to the settlement of a Clean Water Act enforcement suit brought by Riverkeeper."
55. **Findings.** The Parties attest and the Court, by entering this Decree, finds that this agreement has been negotiated by the Parties in good faith; that settlement of this matter is in the public interest and in accordance with the CWA; and entry of this Decree is fair and reasonable.

## XII. EXHIBITS

56. The following Exhibits are attached to this Decree and made a part hereof:

- a. Exhibit A: Stormwater Pollution Prevention Plan
- b. Exhibit B: Schedule

Dated: 4/7/23

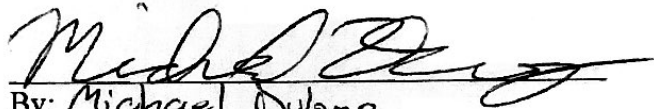
R.B. Scrap Iron & Metal, Inc.



By: Richard Benash  
Title: President

Dated: 4/5/23

Riverkeeper, Inc.



By: Michael Dulong  
Title: Senior Attorney

ENTERED and DATED this 26 day of May, 2023.



Honorable Ronnie Abrams  
United States District Judge

## **EXHIBIT B: SCHEDULE**

*This Schedule is intended for guidance purposes only. In the event of a discrepancy between the language of the Decree and this Schedule, the language of the Decree controls.*

Category	Requirement	Section	Deadline
Terms	Payments	VI	EBP: Installments every 6 months after Effective Date*; other payments, Effective Date + 5 business days
	Term of Decree	I	Effective Date + 3 years
	Respond to Riverkeeper's request to meet and confer to resolve a dispute under the Decree	X	72 hours
	Fully implement SWPPP	III	Effective Date + 90 days
	SWPPP Implementation Report	III	Effective Date + 120 days
Monitoring	Sampling of stormwater discharges for all applicable benchmarks	IV	Quarterly**
	Photographs of visual monitoring of stormwater discharges	IV	Quarterly
	Photographs of routine inspections of BMPs	IV	Quarterly
Ongoing Reporting to Riverkeeper	Amendments to SWPPP	III	30 days
	Copies of inspection records, sampling results, photographs, BMP maintenance logs, and employee training logs	IV	Feb. 1 annually
	Copies of routine government reporting, e.g. ACR, DMR, certifications	IV	Feb. 1 annually
	Records of an exceedance, permit violation, government inspection report, or public or government complaint regarding the Facility	IV	10 business days
Upon exceedance, violation, or non-compliance	Notification in event of benchmark exceedance	V	10 business days
	Provide Riverkeeper with Corrective Action Plan for any exceedance	V	30 days of discovery
	Complete all corrective actions responding to exceedance, and provide proof to Riverkeeper	V	12 weeks of discovery

\*The Effective Date is the date this Decree was entered by the Court.

\*\*As defined by the General Permit, Table IV.2, as follows:

Quarter	Period	28-day Deadline
Quarter 1	January 1 – March 31	April 28
Quarter 2	April 1 – June 30	July 28
Quarter 3	July 1 – September 30	October 28
Quarter 4	October 1 – December 31	January 28



# **EXHIBIT A**

## **Stormwater Pollution Prevention Plan**

**STORMWATER POLLUTION PREVENTION PLAN**

**State Pollution Discharge Elimination System (SPDES)**  
**Multi-Sector General Permit for Stormwater (GP-0-17-004)**  
**SPDES ID # NYR00G680**

*Prepared for*  
**RB Scrap Iron & Metal, Inc.**  
730 Saw Mill River Road, Yonkers, NY 10710

*Prepared by*  
The logo for Integral Engineering P.C. features the word "integral" in a large, blue, sans-serif font. Below it, the words "engineering p.c." are written in a smaller, blue, sans-serif font. A stylized, curved line in a light brown or tan color starts under the 'i' in "integral" and curves around the "engineering p.c." text.  
**31 West 34th Street**  
**Suite 7196**  
**New York, NY 10001-3009**

February 2023

*Affiliated with Integral Consulting Inc.*

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## ACRONYMS AND ABBREVIATIONS

ACR	Annual Certification Report
BMP	best management practice
DMR	Discharge Monitoring Report
Facility	RB Scrap Iron & Metal, Inc., 730 Saw Mill River Road, Yonkers, NY 10710
Integral	Integral Engineering, P.C.
MSGP	Multi-Sector General Permit
MS4	Municipal Separate Storm Sewer System
NOI	Notice of Intent
NYSDEC	New York State Department of Environmental Conservation
RB Scrap	RB Scrap Iron & Metal, Inc.
SIC	Standard Industrial Classification
SPDES	State Pollution Discharge Elimination System
SWPPP	Stormwater Pollution Prevention Plan

## 1 GENERAL FACILITY DESCRIPTION

This Stormwater Pollution Prevention Plan (SWPPP) covers the operations of the RB Scrap Iron & Metal, Inc. (RB Scrap) facility located at 730 Saw Mill River Road, Yonkers, NY 10710 (Facility) (Figure 1). RB Scrap submitted a Notice of Intent (NOI) for the Facility's Municipal Stormwater General Permit (MSGP) and received permit coverage in November 2022 (Appendix A). Based on the Facility's Standard Industrial Classification (SIC) Code 5093, the Facility is classified as a Sector N Scrap Recycling Facility (N-3). A copy of the New York State Department of Environmental Conservation (NYSDEC) State Pollution Discharge Elimination System (SPDES) MSGP for Stormwater Discharges Associated with an Industrial Activity (Permit Number GP-0-17-004; the MSGP).

The SWPPP has been developed in accordance with the MSGP. NYSDEC issued the MSGP on March 1, 2018, since modified with a modification effective date of July 23, 2020.

The purpose of the SWPPP is to meet the following objectives:

- To identify and evaluate potential sources of pollutants associated with industrial activities at the Facility that may reasonably be expected to affect the quality of stormwater discharges and authorized non-stormwater discharges from the Facility
- To identify and implement facility-specific control measures, including best management practices (BMPs), to minimize pollutants associated with industrial activities in stormwater discharges and authorized non-stormwater discharges associated with Facility activities.

BMPs may include a variety of pollution prevention measures and pollution control measures. They are generally categorized as non-structural BMPs (e.g., activity schedules, prohibition of practices, maintenance procedures) and as structural BMPs (e.g., treatment measures, run-off controls, overhead coverage).

### 1.1 GENERAL FACILITY INFORMATION

Name of Facility:	RB Scrap Iron & Metal, Inc.
Facility Address:	730 Saw Mill River Road Yonkers, NY 10710
Facility Primary Contact:	Richard Benash
Notice of Permit Coverage Effective Date:	November 11, 2022

MSGP Renewal Frequency:	Once every 5 years (expires February 28, 2023)
Facility SPDES ID Number:	NYR00G680
SIC Code:	5093
Existing Stormwater Outfall:	Infiltration on site and sheet flow to catch basin on Saw Mill River Road

## 1.2 FACILITY DESCRIPTION AND OPERATIONS

The Facility is situated on the east side of Saw Mill River Road, north of Dearborne Street, in Yonkers (Figure 1). The Facility consists of one parcel, section block and lot number 3.-3123-19.23, and has operated continuously in the scrap metal recycling business since its establishment in 1980. The Facility covers approximately 0.29 acres and is estimated to consist of approximately 80 percent impervious area. It is bounded by Saw Mill River Road to the west, Dearborne Street to the south, and private property on the north and east. The layout of the Facility, including buildings, process areas, storage areas, stormwater flow direction, and structural BMPs, are depicted on Figure 2.

The Facility operates 6 days a week, Monday through Saturday (i.e., 8:00 a.m. to 4:30 p.m. Monday–Friday and 8:00 a.m. to 1:00 p.m. Saturday). Security for the parcel is provided by perimeter fencing and locking gates.

The Facility processes the following types of scrap metals: aluminum, lead, brass, bronze, copper, stainless steel, zinc, steel (prepared, unprepared, plate and structural), cast iron, tin, and light iron. In addition, the Facility recycles radiators, copper alum radiators, catalytic converters, copper insulated wire, alum insulated wire, and aluminum cans. The Facility is not engaged in the dismantling of automobiles nor does it operate as an auto salvage yard (i.e., automobile parts are not removed for individual parts recycling or resale). The Facility also accepts lead–acid automobile batteries for bulking and offsite transport to authorized battery recycling outlets; battery reclamation/recycling activities are not otherwise conducted by the Facility.

The primary Facility operations consist of:

- Receiving, sorting, and sizing (by cutting and shearing) ferrous and non-ferrous metals
- Processing, bulking, compacting (as necessary), and temporarily storing material onsite in sorted containers/roll-off dumpster
- Transporting material offsite once sufficient shipment volume is achieved in storage containers/roll-off dumpster.

Inbound materials are received via truck and undergo an inbound receipt control process, including visual inspection of the inbound load to ensure material conformance with the Facility's material acceptance specifications; non-conforming loads are rejected. Following completion of the inbound receipt control process, vehicle drivers are directed to empty the appropriate materials at the Facility scale location for unloading and sorting.

Non-ferrous materials, are received, processed, and stored under cover in the storage area. There is a storage shed attached to the west end of the storage and processing building. The non-ferrous materials are then bulk packaged for offsite shipment. Offsite shipment occurs via truck, either loose or within containers.

Ferrous materials are sorted into various working piles based on specific material types/grades (i.e., iron, cast iron, light iron, heavy melt steel). Incidental pieces of non-ferrous materials that may be commingled with the inbound ferrous loads are removed and transported to the non-ferrous processing area. An electric-powered, hydraulic metal shear is located in the storage and processing building and is used to shear larger ferrous pieces to the requisite size/specification required by the ultimate metal recyclers. Three outdoor, electric-powered, hydraulic metal balers used to bale ferrous metals for outbound shipment are located to the east outside of the storage and processing building.

Processed ferrous materials are shipped offsite via truck in both baled and loose form. Outbound truck transport is provided via loading directly at the individual material accumulation/storage areas. Materials are stored until a sufficient volume is accumulated for outbound loading of a full roll-off dumpster.

Inbound materials that are amenable to reclamation by reuse (i.e., conduit, piping, steel cans, steel plates) are temporarily stored onsite prior to offsite transport via truck. Primary storage areas for these materials are in container storage adjacent to the storage and processing building.

Lead-acid batteries accepted by the Facility are segregated and stored under cover in the storage area to prevent stormwater contact. Cracked or broken batteries are not accepted. Leaking battery fluid, if any, is covered with baking soda to neutralize the acid; the absorbent is disposed of in accordance with local, state, and federal regulations.

Non-recyclable solid waste materials generated by the Facility are collected and stored in the dumpster for offsite disposal.

The Facility accepts auto bodies that have been previously dismantled (i.e., batteries, tires, foam seating and fuel tanks removed; all fluids drained). The dismantled auto bodies are stored onsite, and a tow truck company is enlisted to bring the vehicle to a facility to be fully processed and recycled.

Fueling operations for Facility vehicles is completed by filling 5-gallon gas/diesel containers at an offsite gas station. The 5-gallon containers are transported to the Facility to refuel the equipment. Equipment is only filled when the fuel tanks can hold more than 5 gallons. No extra gas or diesel is stored in containers onsite.

### **1.3 STORMWATER FLOW**

There are no stormwater conveyance structures on the Facility. The general drainage patterns for the Facility are depicted on Figure 2 and described below. The Facility is located in a relatively flat area adjacent to the Saw Mill River Road, at an elevation of approximately 125 ft above mean sea level. The majority of the Facility is covered by impervious surfaces. Steel plating is provided in localized high-use areas for equipment traction and wear-control of the underlying concrete surfaces.

The Facility area is graded from the back property line (east) towards the road (west), approximately at 1–5 percent. Drainage patterns within the Facility flow from the rear property line toward Saw Mill River Road. Stormwater is not collected on the roof of the buildings; it sheet flows off the roof to the ground and continues to sheet flow over the concrete, towards Saw Mill River Road, ultimately traveling southbound along the Saw Mill River Road roadside curbing into the City of Yonker's storm sewer system. Since stormwater sheet flows from facility to the street, there are no discrete outfalls at the site. A sampling point will be developed at the site to collect stormwater for sampling. This location is the designated monitoring point and is identified as Outfall 001.

The location where the excavator sits on site (the center) has broken concrete and exposed soil from the claw damage when picking up material and transferring to roll-off dumpster. This area is slightly lower allowing for stormwater to pool and infiltrate prior to leaving the facility during larger storm events.

No floor drains are present within any of the buildings or structures at the facility. The roofed structures do not have gutters. Stormwater falls off the roof, to the ground, and sheet flows out to the street.

### **1.4 ADJACENT PROPERTY RUNON**

No runoff from adjacent properties enters the Facility.

### **1.5 RECEIVING WATERS**

Stormwater that sheet flows offsite flows onto Saw Mill River Road following the edge of pavement and curb until it reaches the roadside catch basin. The catch basin is part of the storm

sewer system that is owned by the City of Yonkers. The City of Yonkers's storm sewer system in the vicinity of the Facility outfalls to the Saw Mill River and then to the Hudson River. The Hudson River has a surface water classification of SB (marine waters), which means its best usage is for swimming, other recreation, and fishing. However, the Hudson River is not directly adjacent to the Facility. The Hudson River flows from the north to the south and discharges to the Upper Bay and then ultimately into the Atlantic Ocean.

Stormwater can infiltrate into the site in various locations. The pervious portions of the Facility discharge to subsurface soils, which eventually infiltrates to groundwater.

There are no federal or state mapped and regulated wetlands at the Facility.

## **1.6 MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

The Facility does discharge to a Municipal Separate Storm Sewer System (MS4). The system is maintained by the City of Yonkers.

## **1.7 OTHER SPDES PERMITTED DISCHARGES**

The Facility does not have discharges that are covered by any other SPDES permit for the Facility. The Facility does not generate process wastewater or non-contact cooling water.

## **1.8 LOCATION OF SENSITIVE AREAS**

The Facility discharges to the City of Yonkers storm sewer system. The City's storm sewer system outfalls to Saw Mill River, flowing south into the Hudson River, which is designated as a Class C waterway. The river's classification is known for waters supporting fisheries and suitable for non-contact activities.



## 2 POLLUTION PREVENTION TEAM

The pollution prevention team is responsible for assisting in developing, implementing, maintaining, and revising the Facility's SWPPP. The SWPPP team is identified in Table 1.

Table 1. Stormwater Pollution Prevention Plan Team Members

<b>Leader:</b> Richard Benash <b>Responsibilities:</b> Oversees all stages of SWPPP development and implementation. Responsible for keeping the SWPPP records, scheduling employee training, and scheduling maintenance and upgrades.	<b>Title:</b> Chief Executive Officer <b>Phone:</b> 914-476-2975 <b>Emergency Phone:</b> 914-403-7228
<b>Member:</b> Rodger Benash <b>Responsibilities:</b> Responsible for implementing SWPPP inspection and sampling schedule, preparing inspection reports, and notifying the SWPPP Team Leader of any issues or concerns for follow-up work. Assists in maintaining, replacing, and upgrading equipment.	<b>Title:</b> Assistant <b>Phone:</b> 914-476-2975 <b>Emergency Phone:</b> 914-424-8510

### 3 SUMMARY OF POTENTIAL POLLUTION SOURCES

Potential sources of stormwater pollutants include scrap metal and other recyclable materials that are stockpiled outside and could come into contact with stormwater, as well as equipment maintenance. The following table provides a summary of potential pollutants, potential sources, and structural BMPs for each sub-area. The following sections provide further details.

Table 2. Summary of Potential Pollutants and Potential Pollutant Sources

	Loading and Unloading Entrance Areas	Scrap Storage Areas
Activities	Loading of scrap metal and curbside recyclables	Unloading and stockpiling of scrap metal
Potential Pollutants	Metals (e.g., aluminum, cadmium, chromium, copper, iron, lead, and zinc), total suspended solids, oil and grease	Metals (e.g., aluminum, cadmium, chromium, copper, iron, lead, and zinc), total suspended solids, oil and grease
Potential for Presence in Stormwater	Small amounts of scrap metal that may fall onto the site work area during loading/unloading may be temporarily exposed to stormwater, and therefore there is a potential for pollutants in stormwater.	Scrap metal and curbside recyclables stockpiled in this area are exposed to stormwater, and therefore there is a potential for pollutants in stormwater.
Structural BMPs <sup>a</sup>	None	Overhead coverage

<sup>a</sup> Non-structural BMPs are implemented in all subareas.

## 4 SPILLS AND RELEASES

This section of the SWPPP identifies 1) areas where potential spills or releases could occur and contribute to pollutants to stormwater discharges; 2) material acceptance procedures; and 3) petroleum transfer procedures. In addition, historical reportable spills, releases of petroleum, hazardous substances, or other pollutants that could adversely affect water quality are documented in this section.

### 4.1 IDENTIFICATION OF POTENTIAL SPILL OR RELEASE AREAS

Potential spill and release areas for the Facility are:

- **Ferrous Shear and Baler Activities**—Located in the northeastern portion of the site, both activities utilize hydraulic oils for lubrication purposes. If hydraulic oil leaks onto the pavement, the potential exists for stormwater contact. However, the equipment is surrounded by spill socks (sor bent tube).
- **Fueling Activities**—The potential exists for fuel (gasoline, diesel) to be spilled during fueling operations for Facility vehicles.
- **Maintenance Activities**—The potential exists for motor oils/waste oils to be spilled onto the concrete surface within the site during equipment maintenance activities.

### 4.2 MATERIAL ACCEPTANCE

The Facility has implemented procedures to reduce the potential of a release from operating areas. Scrap metal that is brought to the Facility is inspected by a Facility employee. Material that is observed to or may contain residual liquids or other prohibited materials is either rejected or placed in covered metal containers. The Inbound Recyclable Control Program is described in Section 5.11.

### 4.3 PETROLEUM LOADING AND TRANSFER

Petroleum spills have the potential to occur during the transfer (delivery) of fuel, and the fueling of Facility vehicles.

The delivery of fuel from 5 gallon gas/diesel containers into the Facility is done in accordance with the following standard operating procedures:

- The Facility must determine that the equipment has available working capacity to receive the volume of diesel to be delivered.

- The delivery must be monitored by the Facility personnel, and immediate action must be taken to stop the flow of diesel when the working capacity of the tank has been reached or should an equipment failure or emergency occur. The Facility will use a pan or spill pad during fueling operations to catch any excess liquid during fueling.
- Spill response kits are maintained adjacent to the delivery area for the cleanup of small spills.

#### **4.4 REPORTABLE DISCHARGES**

The Facility has not had a reportable spill or release of petroleum or hazardous substances or other pollutants that could have adversely affected water quality in the 3-year period prior to the month of the submission of the NOI. If the Facility does have a reportable spill or release, it will be documented in the table located in Appendix B.

## 5 STORMWATER CONTROLS

Stormwater management measures and controls or BMPs are implemented at the Facility to minimize contact of potential pollutants with stormwater. Stormwater BMPs include:

- Good Housekeeping
- Regular Inspections
- Maintenance, Testing, and Repair of Equipment and Systems
- Minimization of Exposure
- Training and Education
- Elimination of Unauthorized Non-stormwater Discharges
- Elimination of Floatable Debris
- Minimization of Dust and Waste Materials
- Minimization of Erosion and Sedimentation
- Control of Residual Liquids and Fluids
- Reduction of Stormwater Runoff
- Spill Pads
- Daily Sweeping
- Inbound Recyclable Control Program.

BMPs for Sector N activities are incorporated into this section.

### 5.1 GOOD HOUSEKEEPING

Standard good housekeeping measures are implemented to minimize contact of potentially significant sources or stormwater pollution with stormwater runoff. These measures include maintaining operating areas in a clean and orderly matter, such as by sweeping and other dry cleanup methods, as reasonably practicable. The Facility's exposed concrete areas are periodically inspected for accumulation of debris. Accumulated debris is removed on an as-needed basis. Non-Facility vehicles are allowed only on the paved entrance areas of the Facility to minimize offsite tracking of soil and generation of dust. The Facility conducts daily sweepings of the storage areas, and onsite roadways. The Facility also employs dry absorbent or wet vacuum cleanup methods to contain or dispose/recycle residual liquids as needed.

### 5.1.1 LIQUID STORAGE

Oil (motor and hydraulic) products are stored in 5-gallon containers within the storage shed area. The integrity of the storage containers is monitored and inspected to detect potential leaks. Containers that are observed to be in poor condition or of questionable integrity are emptied and replaced. Fuel is not stored onsite. Routine oil changes for equipment are done offsite.

### 5.1.2 ROUTINE INSPECTIONS

Routine Facility inspections will be completed to document that BMPs are properly implemented at the Facility and are in good condition. The Facility will conduct formal quarterly, and annual inspections, in addition to more frequent inspections. Quarterly facility inspections are carried out by personnel at the Facility who are trained to complete the inspections. Documentation for the formal inspections is maintained as part of this SWPPP and identifies Facility deficiencies, as well as implementation of corrective measures. The visual inspections include an evaluation of the existing stormwater BMPs.

### 5.1.3 QUARTERLY VISUAL MONITORING

Quarterly visual monitoring is required to document stormwater discharges at the Facility's outfall. The visual inspections must be made at least once every three months. The purpose of the visual inspection is to document observations of color, odor, clarity, floating solids, settled solids, suspended solids, oil sheen, or other obvious indicators of stormwater pollution. The visual inspection must be completed during daylight hours.

The visual inspection should be completed within the first 30 minutes of when runoff (either stormwater or snowmelt) begins to occur at the Facility. The storm events selected for visual monitoring should result in more than 0.1 inch of precipitation and occur at least 72 hours after a previous storm event. If no qualifying storm event (i.e., rains/snows more than 0.1 inch and, occurring more than 3 days after the last rain or snowstorm) occurs during a monitoring period, the Facility must document that no qualifying storm event occurred in that monitoring period.

If evidence of stormwater pollution is observed (e.g., discoloration, odors, sheens, solids), then the Facility must evaluate its operations to identify potential sources of pollutant impact to stormwater. Identified sources of pollutant impact must be addressed by either removing or controlling the source (i.e., implementing structural or non-structural BMPs). The SWPPP must be revised within 14 days to include Facility changes, and a visual inspection must be performed during the next storm event after implementation.

Quarterly Visual Monitoring Forms are in Appendix C; the completed forms will be maintained onsite.



#### 5.1.4 COMPREHENSIVE SITE COMPLIANCE INSPECTION AND EVALUATION

The Facility will conduct an annual comprehensive site compliance inspection and evaluation. The inspection is completed by qualified personnel who are familiar with the scrap metal industry, the Facility, the SWPPP, and the implemented BMPs, and have the skills to assess conditions at the Facility that could impact stormwater quality and the effectiveness of the BMPs.

Inspections include all areas where industrial materials or activities are exposed to stormwater, and areas where spills and leaks have occurred within the past 3 years. The inspection includes:

- Industrial materials, residue, or trash on the ground that could impact or be washed away in stormwater
- Leaks or spills from industrial equipment, drums, barrels, tanks, or similar containers
- Unauthorized non-stormwater discharges or allowable non-stormwater discharges that are not certified
- Offsite tracking of industrial materials or sediment where vehicles enter or exit the facility or tracking of material outside of the area where it originates
- Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas
- Evidence of, or the potential for, pollutants entering or discharging from the drainage system
- Areas found to be the source of pollutants observed during visual and analytical monitoring performed during the year
- Stormwater BMPs identified in the SWPPP to document that they are operating correctly
- Discharge locations or points, if accessible, to evaluate the effectiveness of the BMPs in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations will be inspected.

Upon completion of the annual compliance evaluation, a compliance evaluation report is prepared. The report summarizes the scope of the inspection, name(s) of personnel making the inspection, the date(s) of the inspection, discharge monitoring results, and major observations relating to the implementation of the SWPPP. The major observations recorded will include the location(s) of discharges of pollutants from the Facility; location(s) of the BMPs that need to be maintained or replaced or have failed to operate as intended; location of previously unidentified discharges of pollutants from the Facility; and locations where new or additional BMPs are needed. Based upon the results of the inspection, the descriptions of potential pollutant sources and pollution prevention measures and controls identified in this SWPPP will

be revised, as appropriate, within 2 weeks of the inspection, and will provide for implementation of change to the plan in a timely manner, but in no case more than 12 weeks after the inspection (season and weather permitting).

Compliance Inspection Evaluation Forms are in Appendix D; the completed forms will be maintained onsite.

### **5.1.5 ANNUAL DRY WEATHER FLOW MONITORING**

At least once per year, a dry weather flow inspection will be conducted and documented. The inspection will be completed on a day when there is no precipitation and no precipitation has occurred in the past 3 consecutive days. The goal of this inspection is to document the presence or absence of non-stormwater discharges to the Facility's stormwater drainage system.

If evidence of a non-stormwater discharge is discovered, the Facility will identify the source and determine whether it is an authorized discharge. Currently, the Facility does not have other authorized (permitted) discharges onsite; therefore, evidence of a non-stormwater discharge is likely to be related to an unauthorized discharge. The observed, unauthorized discharge must then be stopped or incorporated into the SWPPP. If the Facility cannot stop the discharge within 14 days, NYSDEC will be notified.

Dry Weather Flow Inspection Reports are in Appendix E; the completed forms will be maintained onsite.

### **5.1.6 NYSDEC MSGP CROSS REFERENCE**

A sheet cross-referencing the contents of this SWPPP with NYSDEC's MSGP Inspection requirements can be found in Appendix F.

## **5.2 MAINTENANCE, TESTING, AND REPAIR OF EQUIPMENT AND SYSTEMS**

Preventive maintenance and service is provided for the Facility's equipment and Facility vehicles in accordance with manufacturer's recommendations and specifications. Preventive maintenance includes performing regular visual inspections and testing of the Facility and its vehicles and equipment. Preventive maintenance activities include the following:

- Regularly inspect equipment, machinery, hoses, and containers
- Look for signs of wear or leakage
- Repair parts before they wear out

- Repair and contain all leaks
- Follow recommended maintenance procedures

Drip pads or equivalent measures are placed under leaking stationary equipment until the leak is repaired. The drip pads are inspected for leaks and potential overflow. Liquids from the drip pad are disposed of in accordance with local, state, and federal requirements.

## **5.3 MINIMIZATION OF EXPOSURE**

The Facility minimizes, to the extent practicable, stormwater contact with petroleum and other fluids. Relevant BMPs and procedures are discussed below. Stored materials, prior to offsite transport, are kept under cover as much as possible.

### **5.3.1 SPILL PREVENTION AND RESPONSE PROCEDURES**

The delivery of diesel fuel, in 5-gallon containers, from trucks into the Facility's vehicle are conducted in accordance with the following standard operating procedures:

- The carrier must determine that the receiving tank has available working capacity to receive the volume of diesel to be delivered.
- The delivery must be monitored by RB Scrap personnel, and immediate action must be taken to stop the flow of diesel when the working capacity of the tank has been reached or should an equipment failure or emergency occur.
- Spill response kits are maintained adjacent to the delivery area for the cleanup of small spills.

The Facility must contain and clean up any spill and begin corrective action. The Facility must report every spill to the NYSDEC's Spill Hotline (518-457-7362) within 2 hours unless the spill meets the following conditions:

- It is known to be less than 5 gallons in total volume.
- It is contained and under the control of the spiller.
- It has not reached and will not reach the land (e.g., unpaved surface) or water (the City of Yonkers storm sewer system).
- It is cleaned up within 2 hours of discovery.

### **5.3.2 RESIDUAL FLUIDS**

Residual fluids (e.g., drips from petroleum tanks or turnings) are collected with absorbent pads, and the spent absorbent is disposed of in accordance with local, state, and federal regulations.

## 5.4 TRAINING AND EDUCATION

The Facility will conduct training annually such that Facility personnel are familiar with the SWPPP and are aware of conditions that may cause stormwater pollution. Training is required for employees who are responsible for implementing activities identified in this SWPPP and for employees who work in areas where material or activities are exposed to stormwater. The purpose of the training is to ensure that Facility employees understand the requirements of the SWPPP, are aware of good housekeeping practices and BMPs, and know the procedures to follow in the event of a spill. The training includes:

- A review of this SWPPP and its requirements
- Operation and maintenance of BMPs
- Good housekeeping practices
- How to recognize unauthorized discharges
- How to evaluate the condition and maintenance needs of stormwater controls and equipment that may contribute to contamination of stormwater if not functioning properly
- How to identify when corrective actions are required
- Procedures for stopping, containing, and cleaning up leaks, spills, and other releases
- Proper sampling procedures
- Proper reporting procedures
- Spill prevention and response procedures.

Annual Training Forms can be found in Appendix G.

## 5.5 ELIMINATION OF UNAUTHORIZED NON-STORMWATER DISCHARGES

There are no non-stormwater discharges at the Facility. The buildings at the Facility do not have floor drains.

### 5.5.1 DISCHARGE CERTIFICATION

Certification that all discharges have been evaluated for the presence of non-stormwater discharges is documented in Section 10.

### 5.5.2 ALLOWABLE NON-STORMWATER DISCHARGES

There are no non-stormwater discharges at the Facility.

## **5.6 ELIMINATION OF FLOATABLE DEBRIS**

The Facility employs controls to prevent waste, garbage, and other floatable debris from being discharged into receiving waters. The site is routinely inspected and swept to ensure floatable and solid metal materials are not suspended in stormwater then traveling offsite, and therefore avoid entering the receiving water, the City of Yonkers storm sewer system.

## **5.7 MINIMIZATION OF DUST AND WASTE MATERIALS**

The Facility conducts daily sweepings of the outdoor areas, the storage areas, and roadways. More information on Facility housekeeping is presented in Section 5.1.

## **5.8 MINIMIZATION OF EROSION AND SEDIMENTATION**

Erosion and sediment control practices minimize the possibility of sediment, soil, and metal particles being transported by stormwater. Potential sources of particulates at the Facility include roadways, scrap metal areas, and unpaved areas, as well as sediment that has accumulated on paved surfaces. Land surfaces that are most vulnerable to erosion are bare areas that have no pervious cover, grass, or vegetation, and areas that have been disturbed by heavy equipment. Identified Facility areas that are significantly eroded and have the potential to result in the significant discharge of sediment to offsite surface water bodies are appropriately repaired by regrading and reestablishment of stabilizing vegetation or covered with a pervious surface to preclude excessive offsite transport of silt and sediment.

## **5.9 CONTROL OF RESIDUAL LIQUIDS AND FLUIDS**

The Facility stores all petroleum products in containers within the storage shed.

## **5.10 REDUCTION OF STORMWATER RUNOFF**

About 20 percent of the Facility is pervious, and therefore infiltration plays a role in reducing runoff. The relative flatness of the Facility also promotes infiltration in the pervious areas.

There are depressions by the excavator on the parcel that reduce stormwater runoff through containment and promote infiltration.

## **5.11 INBOUND RECYCLABLE AND WASTE CONTROL PROGRAM**

Inbound material control is an effective way of minimizing pollutants in stormwater by preventing certain prohibited materials from entering the Facility. This is accomplished by

implementing the Facility's Inbound Material Control program, with program elements that include:

- Using signs informing customers which items are not accepted at the Facility
- Inspecting incoming scrap metal at the gate, when unloaded, and elsewhere at the Facility
- Rejecting non-conforming loads
- Training of personnel engaged in the inspection and acceptance of inbound recyclable material
- Working with customers to reduce the amount of prohibited materials, such as cutting oil and residual fluids delivered with scrap material
- Segregating Covered Appliances ready for disposal that have been certified that refrigerant has been removed for reclamation from those Covered Appliances awaiting pickup from a third party for refrigerant recovery and reclamation. The Facility has a freon machine to accommodate.

## 5.12 LEAD BATTERY PROGRAM

In order to minimize potential impacts from used batteries, the facility has the following Lead Battery Program developed to address measures and controls for the proper handling, storage and disposal of scrap lead acid batteries.

- Lead-acid batteries accepted by the Facility are segregated and stored under cover in the storage area to prevent stormwater contact.
- Cracked or broken batteries are not accepted.
- Batteries are bulked onto pallets and wrapped prior to offsite bulk transport.
- The Facility collects batteries to then transfer to authorized battery recycling outlets who dismantles them for recycling and reuse; battery reclamation/recycling activities are not otherwise conducted by the Facility.
- Leaking battery fluid, if any, is absorbed with absorbent (baking soda); the absorbent is disposed of in accordance with local, state, and federal regulations.
- If a battery leaks at the Facility a properly trained employee will do the following:
  - protect hands and face by wearing safety goggles and gloves (rubber, nitrile or latex),

- cover leaking battery and spill area with baking soda, wait till fizzing and bubbling stop,
  - transfer leaking battery and baking soda mixture to double bagged garbage bag,
  - clean up spill area again with a baking soda and water mixture,
  - transfer contaminated materials to same garbage bag,
  - repeat until spill area is clean, then transfer battery and contaminated materials to authorized battery recycling outlets.
- Employees are trained annually or at the time of hire in proper battery management. The battery management training is conducted with annual SWPPP training.

### **5.13 REDUCTION OF STORMWATER CONTACT**

Stormwater runoff is generally directed away from outdoor processing equipment and stored materials. Other containment bins are generally stored indoors or under roofed structures, minimizing contact with stormwater.

### **5.14 E-WASTE**

Electronic waste is securely stored within a building or container and is covered to prevent hazardous release to the environment. Proper electronic waste storage will be inspected as part of the quarterly monitoring.

### **5.15 OTHER BMPS CONSIDERED**

The Facility considered the following BMPs, in accordance with the MSGP, and found that they were impracticable for the reasons listed.

BMP	Impracticability Rationale
Storage of recyclable materials indoors	No additional room exists indoors and constructing additional indoor space is not practicable for this small business.
Oil/water separators or sumps, catch basin filters or sand filters;	There is no stormwater conveyance system on the facility
Permanent or semipermanent covers over areas where materials are transferred, stored, or stockpiled	Materials are moved daily and providing semipermanent covers over these large areas is impracticable.



## **6 PERMIT ELIGIBILITY RELATED TO ENDANGERED SPECIES AND HISTORIC PLACES**

Since the date that the Facility was issued its permit number under an MSGP, the Facility has not been identified as a new facility nor has it expanded or is currently expanding the perimeter of operations onto adjoining or additional parcels that will result in a 1-acre or greater ground disturbance. If the Facility expands the perimeter of operations onto adjoining or additional parcels that will result in a 1-acre or greater ground disturbance, then the SWPPP will be updated to include documentation supporting the determination of permit eligibility with regard to discharges from an industrial activity that may adversely affect 1) a listed or proposed-to-be listed endangered or threatened species or its critical habitat, and 2) a property that is listed or eligible for listing on the National Register of Historic Places.

## 7 MONITORING

The Facility has no historical stormwater sampling data. Stormwater discharge sampling data, when collected, will be retained on site.

### 7.1 ROUTINE MONITORING AND MAINTENANCE

Visual inspections must be made at least once per quarter. The inspections are incorporated into the Quarterly Visual Monitoring Form in Appendix C. Complete Storm Event Data Form each time sampling occurs, form in Appendix H

### 7.2 SEMIANNUAL MONITORING

Semiannual stormwater sampling and analysis are required as part of the MSGP. The frequency for Benchmark and Numeric Effluent Limit monitoring and reporting is twice per year. The sample must be collected from a storm event with at least 0.1 inch of precipitation, provided that the interval from the preceding measurable storm is at least 72 hours prior. The sample must be collected during the first 30 minutes of the discharge during the storm (due to safety considerations at the Facility, samples must be collected during daylight hours). Analysis must be conducted according to test procedures approved under 40 CFR Part 136. Wet weather event information must be tracked by filling out a storm event data form for each quarterly sampling event (described in Section 5.1.3).

Analytical requirements for stormwater samples are summarized in the following table.

Table 3. Summary of Stormwater Analytical Monitoring Requirements

Pollutant of Concern	Benchmark Monitoring Cut-Off Concentration
Total Suspended Solids	100 mg/L
Chemical Oxygen Demand	120 mg/L
Oil and Grease	15 mg/L
Total Recoverable Aluminum	750 µg/L
Total Recoverable Cadmium	1.8 µg/L
Total Chromium	1.8 mg/L
Total Recoverable Copper	12 µg/L
Total Recoverable Iron	1 mg/L
Total Recoverable Lead	69 µg/L
Total Recoverable Zinc	110 µg/L

The bottle, preservative, and volume requirements are as follows:

- Total Suspended Solids—(1) HDPE 1L unpreserved
- Chemical Oxygen Demand—(1) HDPE 250 mL – Sulfuric Acid
- Oil and Grease—(2) 1 L Amber Glass – Sulfuric Acid
- Total Metals—(1) HDPE 250 mL – Nitric Acid
- Total Recoverable Metals—(1) HDPE 250mL – Nitric Acid

### **7.3 DISCHARGES TO IMPAIRED WATER BODIES QUARTERLY MONITORING**

As identified in Part IV.F.1.c of the MSGP, if a facility discharges to an impaired waterbody and the cause of impairment is a pollutant of concern included in the benchmarks and/or numeric effluent limitations to which the facility is subject to in Part VII, the facility is required to conduct the additional sampling requirements detailed in Part IV.F.2 for that particular pollutant(s) only.

The facility discharges into the Saw Mill River, an impaired water body for multiple pollutants depending on the source of information (some of which conflict). As a conservative approach, the pollutants of concern from each source referenced in Table 4 are included in the facility monitoring. This will be updated when and if the sources agree with each other.

RB Scrap is designated as a Sector N Scrap & Waste Recycling Facility. Appendix G—Pollutants of Concern for Impaired Waterbodies Reference Table of the 2018 revised MSGP was referenced to develop the monitoring requirements. Monitoring periods are every 3 months and a report is required to be submitted by the end of the following month (after the quarter ends). Table 4 identifies the pollutant of concern, the information source, the applicable benchmark and the benchmark monitoring cut-off concentration.

Table 4. Summary of Stormwater Analytical Monitoring Requirements for Impaired Water Bodies Quarterly Monitoring

Source	Pollutant of Concern	Applicable Benchmark	Benchmark Monitoring Cut-Off Concentration
Google Earth map of Impaired Waterbodies Applicable to MSGP <sup>1</sup>	Floatables	Oil and Grease	15 mg/L
Final 2018 NYS Section 303(d) <sup>2</sup>	Low Dissolved Oxygen	Chemical Oxygen Demand	120 mg/L
Google Earth map of Impaired Waterbodies Applicable to MSGP and Final 2018 NYS Section 303(d)	Phosphorus	Total Suspended Solids	100 mg/L

The bottle, preservative, and volume requirements are as follows:

- Total Suspended Solids—(1) HDPE 1L unpreserved
- Oil and Grease—(2) 1L Amber Glass – Sulfuric Acid
- Chemical Oxygen Demand—(1) HDPE 250 mL – Sulfuric Acid

## 7.4 GENERAL SAMPLING PROTOCOL

1. Order bottleware discussed above in Sections 7.2 and 7.3 from the laboratory prior to sample collection.
2. Bring necessary bottleware to outfall collection location.
3. Use sampling gloves (latex or nitrile gloves) to collect the outfall water sample.

<sup>1</sup> NYSDEC's MSGP webpage instructs users to use the Google Earth map of Impaired Waterbodies Applicable to MSGP to identify the pollutants of concern for the receiving water body. This approach was confirmed by H. Joe Fung of NYSDEC in a December 21, 2022 e-mail: "Regarding the question on the Pollutants of Concern (POC) for the Saw Mill River: the correct map to use for MSGP purposes is the one at [dec.ny.gov/chemical/9009.html](https://dec.ny.gov/chemical/9009.html) under 'Google Earth map of Impaired Waterbodies Applicable to MSGP'. It's slightly different from the official 303(d) list so that map should be the primary source for impaired waterbodies and their POCs for MSGP purposes."

<sup>2</sup> FINAL New York State 2018 Section 303(d) List of Impaired/TMDL Waters - [https://www.dec.ny.gov/docs/water\\_pdf/section303d2018.pdf](https://www.dec.ny.gov/docs/water_pdf/section303d2018.pdf).

4. Open clean laboratory bottles and fill with surface water from outfall. Do not fully immerse bottle into outfall water. Slowly use bottle/jar to collect surface water and minimize disturbance of bottom solids during sample collection.
5. Once the jar/bottle is filled completely, cap the sample; label with OUTFALL-01, sample collection date, location, and time; and place it inside a resealable plastic bag.
6. Repeat steps 4, and 5 as needed to collect all samples needed.
7. Place stormwater samples in cooler. Place the bag into a cooler and prepare the cooler for pickup or shipment to the laboratory. This includes packing the sample with ice (not ice packs, which cannot uniformly surround the sample bottle). Tape cooler closed, place return shipping address label on cooler, bring sealed cooler to FedEx shipping location to send for laboratory analysis.

## 7.5 DISCHARGE MONITORING REPORT

The analytical results are reported to NYSDEC using a Discharge Monitoring Report (DMR) form and are submitted to NYSDEC via the U.S. Environmental Protection Agency's NetDMR electronic reporting site. The DMR submission frequency is twice per year and submission is due via NetDMR by July 28 for the first 6 month interval and by January 28 of the following year for the second half of the year interval report. Analytical results are to be compared to the Benchmark Monitoring Cut-Off Concentrations to evaluate the overall effectiveness of the SWPPP. Exceedances of the benchmark concentrations identified above signal the need for the Facility to evaluate its potential sources for stormwater pollution and the effectiveness of its current BMPs, and to take corrective action to improve stormwater quality. The MSGP Part V – Corrective Actions section discusses ways to implement and correct any issues that may occur, and the documentation that is required.

DMRs that are submitted to NYSDEC will be retained on site for at last 5 years.

## 7.6 ANNUAL CERTIFICATION REPORT

The Annual Certification Report (ACR) is submitted to NYSDEC along with the second semiannual DMR and the fourth quarterly Discharge to Impaired Waterbodies Report by January 28 of the following year. The ACR provides a summary of the monitoring, sampling, and inspections that took place throughout the previous year. It also provides a brief description of changes to the Facility, problems identified during inspections, improvements to BMPs, or other observations.

ACRs that are submitted to NYSDEC will be retained on site for at last 5 years.

## 8 COPY OF PERMIT REQUIREMENTS

A copy of the MSGP is included in Appendix J. A copy of the Facility's NOI and Notice of Modification, if any, are included in Appendix A.

## 9 INSPECTION SCHEDULE

Table 5. Summary of Monitoring Reporting Requirements

Monitoring Type	Frequency	Reporting Requirement
Visual Monitoring	Quarterly	<ul style="list-style-type: none"> <li>Complete Quarterly Stormwater System Monitoring and Maintenance Form in accordance with Section 5.1.3 and retain on site.</li> </ul>
Comprehensive Site Compliance Inspection	Annual	<ul style="list-style-type: none"> <li>Complete Annual Compliance Inspection Evaluation Report in accordance with Section 5.1.4 and retain on site.</li> </ul>
Dry Weather Flow Monitoring	Annual	<ul style="list-style-type: none"> <li>Complete Annual Dry Weather Monitoring Form in accordance with Section 5.1.5 and retain on site.</li> </ul>
Benchmark Analytical Monitoring	Semiannual	<ul style="list-style-type: none"> <li>Conduct sampling in accordance with Section 7.2.</li> <li>Complete Storm Event Data Form each time sampling occurs. Retain completed forms on site.</li> <li>Submit results to NYSDEC via NetDMR by July 28 or January 28, as appropriate. Retain results on site.</li> </ul>
Impaired Water Body Analytical Monitoring	Quarterly	<ul style="list-style-type: none"> <li>Conduct sampling in accordance with Section 7.3.</li> <li>Complete Storm Event Data Form each time sampling occurs. Retain completed forms on site.</li> <li>Submit results to NYSDEC via NetDMR no later than 28 days following the end of the quarter. Retain results on site.</li> </ul>
Annual Certification Report	Annual	<ul style="list-style-type: none"> <li>Complete Annual Certification Report via the NYSDEC on-line form by January 28.</li> </ul>

## 10 NON-STORMWATER DISCHARGES AND CERTIFICATION

The Facility has evaluated its stormwater discharge for the presence of non-stormwater discharges and concluded that the Facility does not have process wastewater, domestic wastewater, non-contact cooling water, or other illicit discharges to the stormwater drainage systems or to surface waters of the State of New York. Discharge from the site are evaluated annually or quarterly (see Sections 5.1.4 and 5.1.5 and Appendices D and E) for non-stormwater discharges. The outfall to Saw Mill River is evaluated quarterly for non-stormwater discharges originating from the Facility (see Section 5.1.2 and Appendix C). Provided below is certification that the Facility does not have non-stormwater discharges to the Saw Mill River.

I, Richard Benash, Chief Executive Officer, certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Richard Benash / Chief Executive Officer  
Name and Official Title

(914) 476-2975  
Phone Number

  
Signature

1/31/23  
Date Signed



## 11 UPDATES AND AMENDMENTS TO THE SWPPP

This SWPPP is amended whenever there is a change in design, construction, operation, or maintenance at the Facility that may have an effect on the potential for the discharge of pollutants from the Facility that has not been addressed in the SWPPP. Such changes include, but are not limited to, the following:

- Changes in outside storage or processing activities
- Installation or removal of aboveground or underground storage tanks
- Significant changes in the Facility's materials inventory (i.e., the types of materials stored or processed on the Facility) that may impact stormwater runoff quality
- Changes in existing BMPs
- Significant Facility improvements, such as added paving, regrading, new buildings, etc.

The SWPPP will also be amended as a result of inspections, monitoring, or investigations by Facility personnel, qualified personnel, or by local, state, or federal officials if it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources regulated by the MSGP, or it is otherwise not achieving the general objectives of controlling stormwater pollutants from the Facility.

## 12 STORMWATER POLLUTION PREVENTION PLAN CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Authorized Signatory



Richard Benash

Title

Chief Executive Officer

Date

1/31/23

## Figures

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N:\GIS\Projects\1034\_RB\_ScrapWorking\_Maps\Figure\_2\_Facility Plan.mxd 7/21/2022 5:24:45 PM



**Figure 2.**  
Facility Plan  
Stormwater Pollution Prevention Plan (SWPPP)

## **Appendix A**

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### Notice of Intent

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## Division of Water

625 Broadway, Albany, New York 12233-3500

P: (518) 402-8233 | F: (518) 402-9029

www.dec.ny.gov

## Owner/Operator Certification Form for eReports

### SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (GP-0-17-004)

**Instructions**

Please review Appendix H.8 before signing this form. A signature by an unauthorized person will delay permit coverage for your facility.

This form must be signed by one of the following:

1. For a corporation: by a responsible corporate officer
2. For a partnership: by a general partner
3. For a sole proprietorship: by the proprietor
4. For a municipality, state, federal or other public agency: by a principal executive officer or ranking elected official
5. By a duly authorized representative of a person described in 1-4 above.

**Facility Name:** RB Scrap Iron & Metal, Inc.

**eReport Submission Number:** HPJ-N5BD-A8SKR

**Owner/Operator Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Richard Benash

Name (please print or type)

Chief Executive Officer

Title

RB Scrap Iron & Metal, Inc.

Organization

Signature

Date



Department of  
Environmental  
Conservation

Multi-Sector General Permit (MSGP) Notice of Intent GP-0-17-004



Submission HPJ-N5BD-A8SKR    Revision 1    Form Version 1.15

Review

This step allows you to review the form to confirm the form is populated completely and accurately, prior to certification and submission.

Please note: Any work you perform filling out a form will not be accessible by NYSDEC staff or the public until you actually submit the form in the 'Certify & Submit' step.

CONTACT & LOCATION INFORMATION

OWNER INFORMATION

Federal Tax ID # (not required for individuals)  
None Specified

Owner/Operator Name  
RB Scrap Iron & Metal, Inc.

Owner/Operator Street Address  
730 Saw Mill River Road

Owner/Operator City  
Yonkers

Owner/Operator State  
NY

Owner/Operator ZIP  
10710

What type of organization owns the facility?  
Corporation

CONTACT INFORMATION



**Contact Title**

Chief Executive Officer

**Contact First Name**

Richard

**Contact Last Name**

Benash

**Contact Phone**

(914)476-2975

**Contact Email Address**

rbscrap@mac.com

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**FACILITY INFORMATION****Facility Name**

RB Scrap Iron &amp; Metal, Inc.

**Facility Street Address**

730 Saw Mill River Road

**Facility City**

Yonkers

**Facility County**

Westchester

**Facility State**

NY

**Facility ZIP**

10710

**Facility Location (Lat/Long)****Latitude**

40.9603632

**Longitude**

-73.87028769999999

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**BILLING INFORMATION****Is the Billing Information different that the Owner/Operator Information?**

No

**If "Yes," then enter the Billing Information below**

**Billing First Name***None Specified***Billing Last Name***None Specified***Billing Street Address***None Specified***Billing City***None Specified***Billing State***None Specified***Billing ZIP***None Specified***ELIGIBILITY & FACILITY INFORMATION****1. Does your facility meet all eligibility requirements listed in Part I.B of the SPDES Multi-Sector General Permit to gain coverage under this general permit?**

Yes (Continue with this permit)

**2(a). Has a Stormwater Pollution Prevention Plan (SWPPP) been prepared for this facility in accordance with the requirements of the SPDES Multi-Sector General Permit GP-0-17-004? If No, you are not eligible for permit coverage.**

Yes (Continue with 2b)

2(b). Identify how you will make your SWPPP available to the public. Complete the appropriate method(s) below:

**A copy of the SWPPP will be maintained at the facility address listed in the Contact and Location Info section of this NOI**  
Yes**SWPPP will be available online. Enter URL***None Specified***Maintain copy of the SWPPP at the following location (Provide address).**

730 SAW MILL RIVER RD

YONKERS NY 10710

**3. Does your facility conduct any activities listed in Part I.C of the SPDES Multi-Sector General Permit which would make your facility ineligible for coverage under this general permit?**

No (Continue)

**4. Provide the name(s) of the nearest surface waterbody(ies) into which site runoff will discharge:**

Saw Mill River

**5(a). Has the surface waterbody(ies) in question 4 been identified as an impaired waterbody on the CWA 303(D) list or in a watershed for which a Total Maximum Daily Load (TMDL) strategy has been approved?**

No (Skip to Question 6a)

**5(b). Is the pollutant(s) causing the impairment a pollutant of concern included in the benchmarks and/or effluent limitations to which the facility is subject to in Part VII of the SPDES Multi-Sector General Permit? A list of applicable pollutant(s) of concern for the SPDES Multi-Sector General Permit can be found in Appendix G of the permit.**

*None Specified*

**5(c). Does your SWPPP include measures to address the pollutant(s) of concern as required by Part III.D.2 of the SPDES Multi-Sector General Permit?**

*None Specified*

**6(a). Does site runoff enter a Municipal Separate Storm Sewer System (MS4) including roadside drains, swales, ditches, culverts, etc.?**

Yes (Continue with 6b)

**6(b). Enter the name of the municipality/entity that owns the Municipal Separate Storm Sewer System**

City of Yonkers

**7(a). Has this facility been assigned a SPDES MSGP ID under previous versions of the MSGP?**

No

**7(b). If Yes, Provide the ID if known (Note: All SPDES MSGP IDs begin with NYR00)**

*None Specified*

**8. Does this facility have coal piles that are exposed to precipitation?**

No

**9. Does this facility discharge have salt piles that are exposed to precipitation?**

No

**10. Does this facility discharge stormwater from secondary containment areas for liquid bulk storage or transfer areas?**

No

**11. SECTOR S - Is this facility an airport that uses more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis?**

No

**12(a). Is a Representative Outfall Waiver being requested in accordance with Part IV.G? (If Yes, please upload the Representative Outfall waiver form in 12(b)).**

No

**12(b). Upload the Representative Outfall Waiver Form (max. 10MB)**

*No files uploaded*

**Comment**

*None Specified*

## OUTFALL INFORMATION

For each stormwater discharge associated with industrial activity at your facility, identify the outfall number (e.g., 001, 002, etc...); the four digit Standard Industrial Classification (SIC) codes, the Sector Code, the Section N Subsector, or 2-letter Industrial Activity Codes that best represent the principal products or services rendered by the facility for that drainage area; and the Benchmark (B) and/or Compliance (C) monitoring required; and the acreage of industrial activity exposed to stormwater for each outfall (round to the nearest tenth of an acre).

Click the "+" tab to create a new copy of this section for each outfall

1

### Outfall Information

**13. Outfall Number**

001

**13(a). Primary SIC Code**

5093

**13(b). Primary MSGP Sector Code**

N

**13(c). Primary SIC monitoring required?**

Compliance (C)

**13(d). Secondary SIC Code**

None Specified

**13(e). Secondary MSGP sector**

None Specified

**13(f). Secondary SIC monitoring required?**

None Specified

**13(g). Tertiary SIC Code**

None Specified

**13(h). Tertiary MSGP sector**

None Specified

**13(i). Tertiary SIC monitoring required?**

None Specified

**13(j). 1st Additional SIC Code**

None Specified

**13(k). 1st Additional MSGP Sector**

None Specified

**13(l). 1st Additional SIC Monitoring Required?***None Specified***13(m). 2nd Additional SIC Code***None Specified***13(n). 2nd Additional MSGP Sector***None Specified***13(o). 2nd Additional SIC Monitoring***None Specified***13(p). 3rd Additional SIC Code***None Specified***13(q). 3rd Additional MSGP Sector***None Specified***13(r). 3rd Additional SIC Monitoring Required***None Specified***13(s). 4th Additional SIC Code***None Specified***13(t). 4th Additional MSGP Sector***None Specified***13(u). 4th Additional SIC Monitoring Required?***None Specified***13(v). Acreage of industrial activity exposed to stormwater**

0.29

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**14. Is this outfall subject to any of the following EPA Point Source Category Effluent Limitations?****14(a). SECTOR A - Discharges resulting from spraydown or intentional wetting of logs at wet deck storage areas?**

No

**14(b). SECTOR C - Contaminated runoff from phosphate fertilizer manufacturing facilities?**

No

**14(c). SECTOR D - Runoff from asphalt emulsion facilities?**

No

**14(d). SECTOR E - Runoff from material storage piles at cement manufacturing facilities?**

No

**14(e). SECTOR J - Mine dewatering discharges at crushed stone, construction sand and gravel, and industrial sand mines?**

No

**14(f). SECTOR L - Runoff from landfills?**

No

14(g). SECTOR O - Coal Pile runoff at steam electric power generating facilities?  
No

14(h). SECTOR S - Discharges from airport deicing using airfield deicing products that contain urea at an airport with at least 1,000 annual non-propeller aircraft departures?  
No


OWNER/OPERATOR CERTIFICATION

OWNER/OPERATOR CERTIFICATION FORM DOWNLOAD

ALL NOI APPLICANTS MUST SUBMIT THE OWNER/OPERATOR CERTIFICATION

Download the certification form by clicking the Owner/Operator Certification Download link below.

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 At least one file is required.

## **Appendix B**

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### Documentation of Spill and Releases

**Documentation Spills and Releases**  
 RB Scrap Iron & Metal, Inc.  
 730 Saw Mill River Road, Yonkers, NY 10710

<b>Date</b>	<b>Spill or Leak</b>	<b>Location</b>	<b>Type of Material</b>	<b>Quantity</b>	<b>Source</b>	<b>Reason</b>	<b>Amount of Material Removed</b>	<b>Material No Longer Exposed to Stormwater (Yes/No)</b>	<b>Preventative Measures Taken</b>

Directions: Record all spills and leaks of industrial materials that have occurred at the facility in three years prior to effective date of this permit.



## **Appendix C**

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### Quarterly Visual Monitoring Form

**Department of  
Environmental  
Conservation**

**Quarterly Visual  
Monitoring Form  
Multi-Sector GP-0-17-004**

SPDES ID Number

--	--	--	--	--	--	--	--	--

Facility Name

[illegible]

Outfall Number


Examiner's Name

[illegible]

Examiner's Title

[illegible]

Quarter/Year

--	--	--	--	--	--

Rainfall Amount

\_\_\_\_\_

### Qualifying Storm?

☐ Yes ☐ No

### Runoff Source?

☐ Rainfall    ☐ Snowmelt

Date/Time Collected

--	--

 / 

--	--

 / 

--	--

□ □ : □ □ AM / PM

Date/Time Examined

		/			/		
--	--	---	--	--	---	--	--

□ □ : □ □ AM / PM

1. Does the stormwater appear to be colored? ..... ☐ Yes ☐ No

If yes, describe

2. Is the stormwater clear or transparent? ..... ☐ Yes ☐ No

If yes, which of the following best describes the clarity of the stormwater: ..... ☐ Clear ☐ Milky ☐ Opaque

3. Can you see a rainbow sheen effect on the water surface?.....☐Yes ☐No

If yes, which best describes the sheen?..... ☐ Rainbow Sheen ☐ Floating Oil Globules

4. Does the sample have an odor? ..... ☐ Yes ☐ No

If yes, describe

\_\_\_\_\_

9138231658

5. Is there something floating on the surface of the sample? ..... ☐ Yes ☐ No

If yes, describe

6. Is there something suspended in the water column of the sample? ..... ☐ Yes ☐ No

If yes, describe

7. Is there something settled on the bottom of the sample?..... ☐ Yes ☐ No

If yes, describe

8. Is there foam or material forming on the top of the sample surface?..... ☐ Yes ☐ No

If yes, describe

Detail any concerns, corrective actions taken and any other indicators of pollution present in the sample:

Stormwater Examiner's Signature

## **Appendix D**

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### Comprehensive Site Compliance Inspection Reports

RB Scrap Iron & Metal, Inc.  
Stormwater Pollution Prevention Plan, Appendix D

November 2022

### Compliance Inspection Evaluation Form

RB Scrap Iron & Metal, Inc.  
730 Saw Mill River Road, Yonkers, NY 10710

To be performed yearly in accordance with Part IV.A of the NYSDEC SPDES Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activity (Permit No. GP-0-17-004)	
Facility: RB Scrap Iron & Metal, Inc.	Permit ID: NYR00G680
Inspection Date/Time:	
Qualified professional performing the inspection (Name & Title):	
Weather Conditions (Temperature & cloud condition):	
Inspection shall identify or include:	Response: Yes or no, if yes please explain
Industrial materials, residue or trash on the ground that could contaminate or be washed away in stormwater	
Leaks or spills from industrial equipment, drums, barrels, tanks or similar containers	
Examination of all outfall locations, to determine the presence of unauthorized non-stormwater discharges or authorized non-stormwater discharges that are not certified in accordance with Part III.A.7(f)(1) of the NYSDEC SPDES MSGP	
Off-site tracking of industrial materials or sediment where vehicles enter or exit the site	
Tracking of material away from the area where it originates including from areas of no exposure to exposed areas	
Evidence of, or the potential for, pollutants entering or discharging from the drainage system	

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Inspection of areas found to be the source of pollutants observed during visual and analytical monitoring done during the year	
Stormwater BMPs identified in the SWPPP must be observed to ensure that they are operating correctly	
If the Comprehensive Site Compliance Inspection indicates the presence of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam, oil sheen, or other indicators), the owner or operator must, implement corrective actions in Part V of the of the NYSDEC SPDES MSGP	
Location(s) of discharges of pollutants from the site	
Location(s) of previously unidentified discharges of pollutants from the site	
Any evidence of, or the potential for, pollutants entering the drainage system	
The source of any discharges and actions taken to address newly identified authorized non-stormwater discharges or elimination of non-authorized discharges	
Location(s) of BMPs that need to be maintained	
Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location	
Location(s) where additional BMPs are needed that did not exist at the time of inspection	

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Any incidents of noncompliance. Where an inspection does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this permit	
Observations regarding the physical condition of and around all outfalls, including any flow dissipation devices; and evidence of pollutants in discharges and/or the receiving water	
The required corrective actions to be implemented in accordance with Part V of the of the NYSDEC SPDES MSGP	
Summary of results of inspection analysis	
<p><i>I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.</i></p>	
Examiner's Printed Name:	
Examiner's Signature:	Date:

## **Appendix E**

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### Annual Dry Weather Flow Inspection Forms





## **Appendix F**

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### **NYSDEC MSGP Inspection Cross-Reference Sheet**

**NYSDEC MSGP Cross Reference Sheet**RB Scrap Iron & Metal, Inc.  
730 Saw Mill River Road, Yonkers, NY 10710

<b>Question</b>		<b>Document Location</b>
<b>A. Permit</b>		
A1	Does the industrial facility have coverage under GP-0-17-004?	NOI in SWPPP Appendix A
A2	Does the facility discharge any industrial or sanitary wastewater requiring an individual permit?	No, SWPPP § 1.7
A3	Does the facility have a copy of the Notice of Intent (NOI) available onsite?	SWPPP Appendix A
A4	Does the facility have a copy of the NOI Acknowledgement Letter onsite?	NOI Submission Confirmation in SWPPP Appendix A
A5	Does the facility have a copy of SPDES GP-0-17-004 available onsite?	SWPPP Appendix J
A6	Did the facility submit a Certification for a Conditional Exclusion for No Exposure Report?	N/A
A7	Does the facility have a Stormwater Pollution Prevention Plan (SWPPP) on site?	Yes
A8	Do the industrial activities at the site match those listed in the Notice of Intent?	Yes, SWPPP Appendix A
A9	Does a Notice of Modification need to be submitted to make changes to the NOI?	N/A
<b>B. SWPPP Content</b>		
B1	Does the SWPPP provide a general description of the overall industrial activities at the facility?	SWPPP § 1.2
B2	Does the SWPPP contain a site map that identifies all outfalls?	SWPPP Figure 2
B3	Does the SWPPP identify Best Management Practices (BMPs) to be implemented at the facility?	SWPPP § 5
B4	Does the SWPPP identify the responsible parties for inspection, maintenance, and sampling?	SWPPP § 2
B5	Does the SWPPP provide a maintenance schedule for BMPs?	SWPPP § 5
B6	Is the SWPPP being kept current?	Yes
B7	Does the SWPPP include copies of the Annual Certification Reports (ACRs) and Discharge Monitoring Reports (DMRs)?	Retained on site
B8	For DMR exceedances, were corrective and follow up actions taken and documented in the SWPPP?	N/A
<b>C. Self Monitoring Program</b>		
C1	Is the permittee conducting and documenting an annual comprehensive inspection?	SWPPP Appendix D
C2	Is the permittee conducting and documenting quarterly visual monitoring?	SWPPP Appendix C
C3	Is the permittee conducting and documenting annual dry weather flow monitoring?	SWPPP Appendix E
C4	Is the permittee claiming any monitoring waivers?	No
C5	Is the permittee required to perform benchmark monitoring?	Yes, SWPPP § 7 SWPPP § 9

Question		Document Location
C5a	If yes, has the permittee been conducting and documenting benchmark monitoring?	Retained on site
C6	Is the permittee required to conduct compliance monitoring with numeric effluent limitations?	N/A
C6a	If yes, has the permittee been conducting and documenting effluent sampling?	N/A
C7	Is the permittee required to perform quarterly monitoring for discharging to an impaired waterbody?	Yes, SWPPP § 7.4 Retained on site
C8	Is the permittee collecting their sample(s) from an appropriate location?	Outfall 001 SWPPP Figure 2
C9	Is the permittee conducting monitoring in Coal Storage / Salt Storage area, if present?	N/A
C10	Is the permittee conducting monitoring in secondary containment areas for Bulk Storage and Transfer Areas?	SWPPP Appendix D
C11	Is the permittee using an ELAP certified laboratory?	TBD
C12a	Lab Name and Address	TBD
C12b	ELAP #	TBD
C13	Are laboratory analysis reports available for review?	TBD
C14	Is chain-of-custody documentation available?	TBD
C15	Are monitoring records maintained for a minimum of 5 years?	Yes, retained on site
<b>D. Operations &amp; Maintenance</b>		
D1	Are good housekeeping practices being implemented?	Yes
D2	Are covers used to protect raw materials and products that are stored outside?	Yes
D3	Are hazardous materials stored in properly designed secondary containment areas?	Yes
D4	Are there any leaking pipes, containers, equipment, etc.?	No
D5	Are there any illicit connections present (i.e., floor drains, non-permitted discharges, etc.)?	No
D6	Is there active erosion or sedimentation occurring resulting in the discharge of pollutants?	No
<b>E. BMPs</b>		
E1	Are the sector specific BMPs being properly implemented?	SWPPP § 5
E2	Non-structural BMPs present – list	SWPPP § 5 SWPPP § 9
E3	Structural BMPs present – list	SWPPP § 3 SWPPP § 5 SWPPP Figure 2
<b>F. Effluent/Receiving Water Visual Observations</b>		

RB Scrap Iron & Metal, Inc.

Stormwater Pollution Prevention Plan, Appendix F

July 2022

Question		Document Location
F1	Does the facility discharge directly to a waterbody? If yes, name of waterbody.	Yes, SWPPP § 1.5
F2	Does the facility discharge directly to a Storm Sewer/MS4?	No, SWPPP § 1.6
F3	Is there evidence of a Water Quality Standards Violation?	No
F4	Is dry weather discharge occurring?	No
F5	Does the facility have designated outfall?	Outfall 001: SWPPP § 5.13.3 SWPPP Figure 2

## **Appendix G**

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### Stormwater Pollution Prevention Annual Training Forms

RB Scrap Iron & Metal, Inc.

Stormwater Pollution Prevention Plan, Appendix G

July 2022

## Stormwater Pollution Prevention Annual Training

RB Scrap Iron & Metal, Inc.  
730 Saw Mill River Road, Yonkers, NY 10710

### List of Attendees

Date of Training:	
Name	Signature

## **Appendix H**

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### Storm Event Data Form



# Storm Event Data Form

## GP-0-17-004

Permit Number

N	Y	R	O	O				
---	---	---	---	---	--	--	--	--

Facility Name

[illegible]

Contact First Name

[illegible]

Contact Last Name

[illegible]

Contact Phone

--	--	--	--

-

--	--	--	--

-

--	--	--	--

Contact eMail

[illegible]

Storm Duration: (in hours)

Rainfall measurement from Storm Event: (in inches)

Date of last measurable Storm Event:

Duration between Storm Event sampled and end of previous measurable Storm      .      (in hours)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

O/O Signature First Name (please print or type)

MI

O/O Signature Last Name (please print or type)

Date \_\_\_\_\_

Signature

## **Appendix I**

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### SWPPP Revision Summary

